

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 66 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BACHUBHAI KESHAVBHAI

Versus

STATE OF GUJARAT

Appearance:

MR DG SHUKLA for Petitioner

MS SIDDHI TALATI for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/10/97

C.A.V. JUDGEMENT

1. Though this petition is of the year 1986, but the respondents have not chosen to file reply to the same. In the absence of reply to the special civil application by the respondents, the averments made therein stand uncontroverted.

2. The petitioner has given out that in the year 1979 he was appointed by the respondent No.2 as Chowkidar

on daily wages. His services came to be terminated on 14-10-1981. He raised an industrial dispute which was referred to the Labour Court, Rajkot. The Labour Court, Rajkot decided the matter in his favour to the extent of reinstatement but full backwages were not awarded. So the petitioner thereafter was reinstated in service and what he claims is that he is continuing for all these years. Having the apprehension of termination of his services because of the circular dated 20th June, 1983, he filed this special civil application before this Court and three fold prayers have been made.

- (i) to declare the aforesaid circular to be illegal.
- (ii) to restrain the respondents from terminating his services, and
- (iii) to direct the respondents to give him the regular employment.

3. This petition has been admitted by this Court on 27-1-1986 and interim relief has been granted in terms of Para No.15(d). Para No.15(d) reads as under:

pending hearing and final disposal of this petition, Your Lordships will be pleased to restrain the respondents herein from terminating the services of the petitioner or degrading him to the inferior post.

4. This petition was ordered to be heard alongwith the special civil application No.5051/85 which was decided by this Court on 30th July, 1997. However, I find little identity in between the two matters.

5. The learned counsel for the petitioner raised manifold contention in this case but unfortunately none of the counsel for the parties present in the Court is unable to give out what ultimately has been done with the services of the petitioner during the last eleven years. However, it is sure that the petitioner is continuing in service for all these years may be for the reason that this Court has protected him.

6. In view of this fact, the interest of justice will be met in case this special civil application is disposed of in terms that in case the respondents still desire to terminate the services of the petitioner then it is only permissible to them after giving notice and an opportunity of hearing to him. In case in the meanwhile, the petitioner has been made regular in the employment then he would have been continued for all these years in such capacity and in that eventuality there is no

question of any termination of services of the petitioner by the respondents otherwise than in accordance with law. Liberty to the petitioner for revival of this special civil application in case of difficulty. The special civil application and rule stand disposed of in the aforesaid terms with no order as to costs.

zgs/-